

City of Burien

BURIEN PLANNING COMMISSION MEETING

August 28, 2007

7:00 p.m.

City Council Chambers

MINUTES

Planning Commission Members Present:

Robert Simpson-Clark, Jim Clingan, Stacie Grage, Rebecca Janet Shull, Michael Sumner

Absent:

Rebecca McInteer, Jon Newton

Others Present:

Scott Greenberg, planning director; Gary Coleman, finance department; Liz Ockwell, planner

Roll Call

Chair Simpson-Clark called the meeting to order at 7:03 p.m. Upon the call of the roll all commissioners were present with the exception of Commissioners Newton and McInteer.

Agenda Confirmation

Motion to approve the agenda as printed was made by Commissioner Clingan. Second was by Commissioner Grage and the motion carried unanimously.

Election of Officers

Chair Simpson-Clark nominated Commissioner Clingan to serve as chair and Commissioner Sumner to serve as vice-chair.

Commissioner Clingan respectfully declined the nomination, as did Commissioner Sumner.

Chair Simpson-Clark nominated Commissioner Shull to serve as chair. The nomination was approved by acclamation.

Commissioner Clingan nominated Commissioner Grage to serve as vice-chair. The nomination was approved by acclamation.

Public Comment – None

Approval of Minutes

A. July 24, 2007

Commissioner Clingan referred to the eighth paragraph on Page 2 and pointed out that the last word should be “bad” rather than “back.”

Motion to approve the minutes as amended was made by Chair Simpson-Clark. Second was by Commissioner Sumner and the motion carried unanimously.

Old Business

A. Capital Improvement Program Discussion and Recommendation to City Council

Chair Shull opened the floor to questions and comments regarding the CIP.

Commissioner Clingan referred to item five, “Park Acquisition and Development,” in the section titled “Current Parks and General Government CIP Projects” and asked where someone would go to see what the list of priorities are for that particular item. Gary Coleman from the finance department said on the page of the CIP where the project is highlighted areas are listed rather than specific places.

Chair Shull commented that she lives in the Gregory Heights area of Burien and sees it as an underserved area. She said she hopes the Park Acquisition and Development item will in the near future be removed from the unfunded list.

Commissioner Simpson-Clark called attention to the short section of 151st between Town Square and the fire station and proposed that it should be flagged as a high priority. The roadway will be critical to the development incentives the City is trying to put in place for the downtown area. Mr. Coleman agreed it would be an easy matter to include that segment as the 6th Avenue side is done. Mr. Greenberg suggested the final motion to recommend the CIP could include that recommendation as an add-on for City Council consideration.

Motion to recommend to the City Council the Capital Improvement Program, with the addition of 151st between Town Square and the fire station, was made by Commissioner Simpson-Clark. Second was by Commissioner Sumner and the motion carried unanimously.

New Business

A. Zoning Code Amendment – Accessory Dwelling Units

Assistant Planner Liz Ockwell explained that the City Council has directed the Planning Commission to take up the accessory dwelling unit issue as the result of a code enforcement action against a property owner who established a detached accessory dwelling unit in a garage without obtaining a permit.

Ms. Ockwell noted that according to the Comprehensive Plan, accessory dwelling units are to be on large lots. While “large lots” is not clearly defined, at the time the council adopted the code the definition used was 1.5 times the minimum lot size.

A chart comparing the Burien accessory dwelling unit regulations against the regulations in place by 13 other area jurisdictions was shared with the commissioners. It was noted that all but two of the other jurisdictions allow detached accessory dwelling units. Eight of the cities allow them on any size legal lot.

The options placed before the commission were: 1) eliminating the size limit for detached accessory dwelling units altogether; 2) reducing the minimum lot area through various options; 3) establishing a two-tier minimum lot area with an absolute minimum lot area or in proportion to the zone; 4) establishing a single lot area for detached accessory dwelling units; and 5) allowing more flexibility for existing structures.

Answering a question asked by Commissioner Simpson-Clark, Ms. Ockwell said in addition to requiring a lot of 1.5 times the minimum lot size, the code states that detached accessory dwelling units cannot exceed 800 square feet in size, and they must abide by all applicable setbacks and lot coverage requirements.

Commissioner Sumner asked what the downside would be for allowing detached accessory dwelling units on lots of less than 1.5 times the minimum lot size. Ms. Ockwell said density is the main impact. She explained that attached accessory dwelling units are permitted on any lot size provided they are attached to the main structure and give the look and feel of a single unit.

Commissioner Simpson-Clark suggested what the City should avoid is de facto duplex zoning. The current regulations come very close to that, the only exception being that one of the units must be owner-occupied.

Commissioner Sumner said he has lived in some of the towns listed that do not require a minimum lot size. He said he could see no reason to require 1.5 times the minimum lot size.

Mr. Greenberg clarified that the City does not by any artificial means limit what can be done with detached buildings that comply with the building envelope defined by the setbacks, impervious surface requirements and height restrictions. The only thing that cannot be done in detached buildings on lots smaller than 1.5 times the minimum lot size is include a kitchen and sleeping unit. Given that, the only real drawback to doing away with lot size requirement would be having more people physically living on a given lot, thus increasing the density. Under the code, the same size unit would be allowed if attached to the main structure.

Chair Shull commented that the same number of people will be living on a property regardless of whether an accessory dwelling unit is attached or detached.

Answering a question asked by Commissioner Clingan, Ms. Ockwell said an attached unit is defined as having at least one common wall with the main structure.

Commissioner Simpson-Clark said he would have no problem converting an existing detached structure into an accessory dwelling unit, but would question permitting a new separate building as an accessory dwelling unit, which could effectively become a second house on the same lot.

Commissioner Clingan asked what regulations Seattle has regarding attached or detached accessory dwelling units and minimum lot areas. Mr. Greenberg said he will research that issue and report back. He said he will also bring to the commission the number of accessory dwelling units permitted by the City over the past five years, whether the majority are attached or detached, and what zoning district they tend to be in.

Chair Shull said she is not particularly fond of the current minimum lot size requirement. It would be better to rely on all of the setback and lot coverage requirements and to establish design standards for accessory dwelling units. The primary issue is aesthetics.

Commissioner Sumner suggested that over the next 20 years as the Baby Boom generation retires there will be more of a need for accessory dwelling units, especially since so many have done a poor job of planning for retirement. Families will need to take care of their own. The 1.5 rule will prove to be just too restrictive. He agreed that aesthetics should be the basic issue to address.

Mr. Greenberg explained that for a year after the new accessory dwelling unit regulations went into place, the City allowed people with an existing unit to come in and have it legalized without having to comply with any rules except health and safety and owner occupancy. A handful of people took advantage of that opportunity, which was widely advertised to Burien residents.

Commissioner Simpson-Clark suggested that the parking regulations associated with accessory dwelling units need to be clarified. Ms. Ockwell explained that a single family home must provide two parking spaces, and accessory dwelling units are required to have one additional space. None of the spaces are required to be covered, but they must be off-street on impervious surfaces.

Chair Shull noted that some smaller lots simply will not be able to meet all of the requirements.

Mr. Greenberg noted for the record that copies of an email from Gerry Robison regarding the accessory dwelling unit issue had been distributed to the commissioners.

There was agreement to potentially eliminate the 1.5 times requirement. Mr. Greenberg said the issue will be before the commission again for review prior to the public hearing.

Ms. Ockwell informed the commissioners that in 2006 the City issued a code interpretation stating that the amnesty period did not apply to accessory dwelling units that had been permitted under King County prior to incorporation by the City. There remain existing accessory dwelling units that have not been permitted. The options are to: 1) recognize the prior King County units through proper documentation; 2) provide another amnesty period during which existing units could be permitted; or 3) not provide another amnesty period.

Commissioner Simpson-Clark suggested the simplest approach would be to leave open the amnesty that was put in place after the new code was adopted in 2002. That way any accessory dwelling unit that was created without permit between 1993 and 2002 and which has been in continuous use could be legalized.

Commissioner Clingan suggested that units created without permit even before 1993 should be treated the same and be grandfathered in, provided they are inspected and meet all of the basic health and safety requirements. There was consensus in favor of going in that direction.

Chair Shull said she would like to see the City have some tools in place to encourage people to bring previously unpermitted accessory dwelling units up to code once they are legalized under the amnesty.

Ms. Ockwell noted that during the previous amnesty period some requirements, such as parking and size, were waived.

Commissioner Simpson-Clark suggested that it may be necessary to use good judgment in deciding those issues.

B. Zoning Code Amendment – Miscellaneous

With regard to the first amendment, Mr. Greenberg explained that the state changed its multifamily tax abatement program from 10 years to eight years, unless 20 percent or more of the housing units are affordable according to the standard guidelines, in which case the abatement is for 12 years. The amendment is needed to adopt the new state language.

Mr. Greenberg said the second amendment deals with curbing and parking lots adjacent to landscaping. In one part of the code, cast-in-place curbing or a structural barrier is required adjacent to landscaping

areas in commercial and multifamily parking lots. In the parking chapter, only cast-in-place curbing is allowed to enclose access and parking areas. Since landscaping is required on the outside of parking areas, there is a conflict.

Commissioner Simpson-Clark proposed adding the phrase “functionally equivalent” before “structural barrier.” Mr. Greenberg said that is the intent.

Chair Shull asked if there has ever been a developer wanting to install railroad ties instead of concrete as barriers. She suggested that if the change proposed by Commissioner Simpson-Clark is put in place, the City will not have the ability to say no to wooden structural barriers. Mr. Greenberg said he was not able to recall any such instances. However, Northwest style includes the use of wood. For a particular project, the use of wood bollards rather than concrete curbs may be appropriate. The code could be drafted to specifically prohibit the use of railroad ties. The City also wants to avoid allowing extruded curbs because they do not last as long and are not as structurally strong.

Commissioner Simpson-Clark suggested requiring the structures to be steel reinforced. Mr. Greenberg said he would check with Public Works on that issue.

Turning to the third amendment, Mr. Greenberg explained that there have been several situations in which the City has approved things like critical area reviews, plans for a new office building or school, and even city projects, through Type I, II or III review processes, only to find out later that something has to change. An interpretation was issued with several criteria listed for allowing administrative changes to approvals. No change can violate any specific condition of approval or a code, allow for the expansion of the area of a use or structure by more than 10 percent, or result in significantly more impact on the surrounding area. The proposed revision is intended to allow for some additional flexibility.

The fourth amendment deals with temporary structures and setbacks. Mr. Greenberg explained that the City has been asked if store-bought mini-sheds are subject to property line setbacks. Using the rationale that the City allows fences six feet tall along property lines, the determination was made that temporary structures of the same height should be permitted within the setback. Because the term “structure” is very broadly defined in the code, it also applies to picnic tables, swing sets and sandboxes.

The commissioners offered no comments.

Mr. Greenberg said the fifth amendment is based on federal law. The city attorney has indicated that the City must treat religious facilities the same as other uses in different zones. The City does not currently permit religious facilities to be located in five different zones, something that may have been done inadvertently.

Commissioner Simpson-Clark said his recollection was that the discussion focused on both religious facilities and schools. There never was a conscious attempt to restrict religious facilities any more than schools. Mr. Greenberg said the amendment will clarify the situation.

The sixth amendment dealt with the undergrounding of utilities, and Mr. Greenberg allowed that the current approach has been problematic since the day it was adopted. There are conflicting provisions in the Zoning Code, which was adopted in 2000, and the new right-of-way code, which was adopted in 2004. Mr. Greenberg said he and the Public Works director agree the provisions of the right-of-way code are written more broadly and should be the language in play. The proposed amendment would repeal the Zoning Code section and allow the right-of-way code to control undergrounding utilities.

Drive-throughs in the Downtown Commercial zone are the subject of the seventh amendment. Mr. Greenberg explained that there are two conflicting code sections. The first is the use zone chart for the zone, which prohibits drive-throughs, except for drive-through banks, essentially on 4th and 152nd. The design guidelines, however, include standards for drive-throughs. The proposal is to repeal the use zone chart prohibition against drive-throughs on 4th and 152nd in favor of relying on the design standards.

Commissioner Simpson-Clark said there was a lot of discussion by the commission, with input from professionals, all of which was focused on having the area be pedestrian oriented. The determination at the time was that auto-related drive-throughs are not compatible with a pedestrian-friendly environment, except for banks in the downtown.

Mr. Greenberg agreed that drive-throughs should not be permitted if they go in and out over curb cuts on 4th and 152nd. The design standards require the entrances and exits for all drive-throughs anywhere in the downtown to be internal to the property. Commissioner Simpson-Clark said that does not change the pedestrian look for an area.

Chair Shull concurred with Commissioner Simpson-Clark. She agreed that drive-throughs can be designed to look attractive, but they are still an auto-oriented feature, not a pedestrian-oriented feature, and as such do not belong in a pedestrian environment.

Mr. Greenberg said one option would be to keep the prohibition against drive-throughs in place for 152nd but lift it for 4th, which functions more as a north-south arterial serving the downtown; 6th will be similar once it is completed.

Commissioner Simpson-Clark suggested it would be worthwhile to review the Class A pedestrian status of 4th, but without changing the rule prohibiting drive-throughs.

With regard to the eighth amendment, Mr. Greenberg explained that the proposed revision deals with the Downtown Commercial height limit map. He noted that when the map was originally produced it was difficult to tell from looking at it exactly where the height limit on 152nd should be measured, from the middle of the street or the edge of the street. Having done some research, he said the conclusion reached was that the measurement should be from the centerline of the street. A new map done on a GIS system has been produced which makes that clarification. Accordingly, the five- to eight-story height limit area begins 125 feet north of the centerline of 152nd. The amendment seeks to adopt the new map in place of the old one.

Turning to the ninth amendment, Mr. Greenberg explained that there is a section in the sign code that prohibits product or service information on freestanding signs between a building and the street. Such signs are limited to including the name of the business. The intent of the code section was to get a handle on the number of reader boards used in the city. In retrospect it would have been better to write the code to simply prohibit reader boards between a building and the street. The city attorney has found the current code language to be a violation of the first amendment, so it has never been enforced.

Mr. Greenberg said the proposal is to repeal the section. He agreed, however, to bring back to the commission some additional options based on research to see how other cities are treating the issue. He clarified that the section deals only with signs that are changed manually, not electronic signs.

Mr. Greenberg said the last amendment is focused on allowing some flexibility for special event signs during construction projects. He said both businesses and Discover Burien have asked for the flexibility in allowing things such as extra banners. A-frame and portable signs are not part of the discussion. The

proposal is to codify current practice by extending the time limits beyond 40 days in areas affected by street construction projects or other construction-related impacts on vehicle or pedestrian access.

Commissioner Simpson-Clark noted that Discover Burien has been utilizing A-frame signs in the city, and it cites a city code interpretation as justification. He asked how the City could have made such an interpretation given that A-frame signs are categorically prohibited and not subject to any variance. Mr. Greenberg said the interpretation had to do with nonprofit organizations that do not always have the same location for their events. Discover Burien does not have a single location in the city at which it can put up a sign advertising all of its events. The interpretation allowed it some level of flexibility.

Director's Report

Mr. Greenberg reviewed the future meeting agendas dates.

Answering a question asked by Chair Shull, Mr. Greenberg said it his understanding that eventually the entire commercial building near where the new Burger King is located will be removed to increase visibility for the retail tenants from 148th. A portion of the building has already been removed.

Mr. Greenberg said the City has received a proposal for a hotel/mixed use building on the city-owned property adjacent to Washington Mutual. A meeting is planned for later in the week to talk over some of the details. The company appears to be well qualified for the project.

Mr. Greenberg also reported that King County Metro finally has issued the RFP for the transit-oriented development.

Commissioner Clingan reported that he attended the last Port of Seattle Commission meeting, representing himself as a member of the Burien Planning Commission but speaking as a private citizen. He said the Port Commissioners voted 3-2 to move forward with the demolition of the Lora Lake Apartments. A variety of lawsuits are in the works, and it is unlikely that anything will happen until at least March of 2008.

Adjournment

Motion to adjourn was made by Commissioner Simpson-Clark. Second was by Commissioner Clingan and the motion carried unanimously.

Chair Shull adjourned the meeting at 8:55 p.m.

Approved: _____

Janet Shull, chair
Planning Commission